

Panaji, 22nd September, 1988 (Bhadra 31, 1910)

SERIES I No. 25

OFFICIAL GAZETTE



GOVERNMENT OF GOA

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Law (Legal and Legislative Affairs) Department

Notification

10/3/88/LA

The Constitution (Fifty Eighth Amendment) Act, 1987, which was passed by Parliament and assented to by the President of India on 9th December, 1987, and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 10th December, 1987 is hereby republished for general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 15th March, 1988.

The Constitution (Fifty Eighth Amendment) Act, 1987.

AN

ACT

further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Constitution (Fifty-eighth Amendment) Act, 1987.

2. *Amendment of the heading of Part XXII.*— In Part XXII of the Constitution, in the heading, after the word "COMMENCEMENT", the words "AUTHORITATIVE TEXT IN HINDI" shall be inserted.

3. *Insertion of new article 394A.*— After article 394 of the Constitution, the following article shall be inserted, namely:—

"394A. *Authoritative text in the Hindi language.*
— (1) The President shall cause to be published under his authority,—

(a) the translation of this Constitution in the Hindi language, signed by the members of the Constituent Assembly, with such modifications as may be necessary to bring it in conformity with the language, style and terminology adopted in the authoritative texts of Central Acts in the Hindi language, and incorporating there-

in all the amendments of this Constitution made before such publication; and

(b) the translation in the Hindi language of every amendment of this Constitution made in the English language.

(2) The translation of this Constitution and of every amendment thereof published under clause (1) shall be construed to have the same meaning as the original thereof and if any difficulty arises in so construing any part of such translation, the President shall cause the same to be revised suitably.

(3) The translation of this Constitution and of every amendment thereof published under this article shall be deemed to be, for all purposes, the authoritative text thereof in the Hindi language."

Notification

10/3/88/LA

The Parsi Marriage and Divorce (Amendment) Act, 1988 (Act No. 5 of 1988), which was passed by Parliament and assented to by the President of India on 25th March, 1988 is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 20th May, 1988.

The Parsi Marriage and Divorce (Amendment) Act, 1988.

AN

ACT

further to amend the Parsi Marriage and Divorce Act, 1936.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Parsi Marriage and Divorce (Amendment) Act, 1988.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 3.*— In the Parsi Marriage and Divorce Act, 1936 3 of 1936.

(hereinafter referred to as the principal Act), section 3 shall be re-numbered as sub-section (1) thereof, and —

(a) in sub-section (1) as so re-numbered, for clause (c), the following clause shall be substituted, namely:—

“(c) in the case of any Parsi (whether such Parsi has changed his or her religion or domicile or not) who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age.”;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding that a marriage is invalid under any of the provisions of sub-section (1), any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate.”.

3. *Amendment of section 6.* — In section 6 of the principal Act, the words “or their fathers or guardians when they shall not have completed the age of twenty-one years,” shall be omitted.

4. *Amendment of sections 19 and 20.* — In sections 19 and 20 of the principal Act, for the words “by seven delegates”, the following shall be substituted, namely:—

“by five delegates, except in regard to—

(a) interlocutory applications and proceedings;

(b) alimony and maintenance, both permanent as well as *pendente lite*;

(c) custody, maintenance and education of children; and

(d) all matters and proceedings other than regular hearing of cases”.

5. *Amendment of section 25.* — In section 25 of the principal Act, after the words “being in force”, the words “involving moral turpitude” shall be inserted.

6. *Amendment of section 27.* — In the proviso to section 27 of the principal Act, for the word “three”, the word “two” shall be substituted.

7. *Amendment of section 29.* — In section 29 of the principal Act, in sub-section (1), the words “or where the marriage under this Act was solemnized” shall be added at the end.

8. *Amendment of section 32.* — In section 32 of the principal Act,—

(i) after clause (b), the following clause shall be inserted, namely:—

“(bb) that the defendant has been incurably of unsound mind for a period of two years or upwards immediately preceding the filing of the suit or has been suffering continuously or intermittently from mental disorder of such kind and to such an extent that the plaintiff cannot

reasonably be expected to live with the defendant.

Explanation. — In this clause,—

(a) the expression “mental disorder” means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia;

(b) the expression “psychopathic disorder” means a persistent disorder or disability of mind (whether or not including subnormality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the defendant, and whether or not it requires or is susceptible to medical treatment;”;

(ii) after clause (d), the following clause shall be inserted, namely:—

“(dd) that the defendant has since the solemnization of the marriage treated the plaintiff with cruelty or has behaved in such a way as to render it in the judgment of the Court improper to compel the plaintiff to live with the defendant:

Provided that in every suit for divorce on this ground it shall be in the discretion of the Court whether it should grant a decree for divorce or for judicial separation only;”;

(iii) in clause (g), for the words “three years”, the words “two years” shall be substituted;

(iv) in clause (h),—

(1) the words “a decree or order for judicial separation has been passed against the defendant, or” shall be omitted;

(2) for the words “three years”, the words “one year” shall be substituted;

(v) clause (i) shall be omitted;

(vi) in clause (j), after the word “Parsi”, the words “by conversion to another religion” shall be inserted.

9. *Insertion of new sections 32A and 32B.* — After section 32 of the principal Act, the following sections shall be inserted, namely:—

“32A. *Non-resumption of cohabitation or restitution of conjugal rights within one year in pursuance of a decree to be ground for divorce.* — (1) Either party to a marriage, whether solemnized before or after the commencement of the Parsi Marriage and Divorce (Amendment) Act, 1988, may sue for divorce also on the ground,—

(i) that there has been no resumption of cohabitation as between the parties to the marriage for a period of one year or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties; or

(ii) that there has been no restitution of conjugal rights as between the parties to the marriage for a period of one year or upwards after the passing of a decree for restitution of conjugal rights in a proceeding to which they were parties.

(2) No decree for divorce shall be granted under sub-section (1) if the plaintiff has failed or neglected to comply with an order for maintenance passed against him under section 40 of this Act or section 488 of the Code of Criminal Procedure, 1898 or section 125 of the Code of Criminal Procedure, 1973.

5 of 1898.

2 of 1974.

32B. *Divorce by mutual consent.* — (1) Subject to the provisions of this Act, suit for divorce may be filed by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Parsi Marriage and Divorce (Amendment) Act, 1988, on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved:

Provided that no suit under this sub-section shall be filed unless at the date of the filing of the suit one year has lapsed since the date of the marriage.

(2) The Court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized under this Act and the averments in the plaint are true and that the consent of either party to the suit was not obtained by force or fraud, pass a decree declaring the marriage to be dissolved with effect from the date of the decree."

10. *Amendment of section 34.* — In section 34 of the principal Act, the portion beginning with the words "or on the ground that", and ending with the words "with the defendant" shall be omitted.

11. *Amendment of section 35.* — In section 35 of the principal Act, after the figures "32", the figures and letter "32A" shall be inserted.

12. *Substitution of new section for section 38.* — For section 38 of the principal Act, the following section shall be substituted, namely:—

"38. *Documentary evidence.* — Notwithstanding anything contained in any other law for the time being in force, no document shall be inadmissible in evidence in any proceeding at the trial of a suit under this Act on the ground that it is not duly stamped or registered."

13. *Substitution of new sections for sections 39 and 40.* — For sections 39 and 40 of the principal Act, the following sections shall be substituted, namely:—

"39. *Alimony pendente lite.* — Where in any suit under this Act, it appears to the Court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the suit, it may, on the application of the wife or the husband, order the defendant to pay to the plaintiff, the expenses of the suit, and such weekly or monthly sum, during the suit, as, having regard to the plaintiff's own income and

the income of the defendant, it may seem to the Court to be reasonable.

40. *Permanent alimony and maintenance.* — (1) Any Court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on an application made to it for the purpose by either the wife or the husband, order that the defendant shall pay to the plaintiff for her or his maintenance and support, such gross sum or such monthly or periodical sum, for a term not exceeding the life of the plaintiff as having regard to the defendant's own income and other property, if any, the income and other property of the plaintiff, the conduct of the parties and other circumstances of the case, it may seem to the Court to be just, and any such payment may be secured, if necessary, by a charge on the movable or immovable property of the defendant.

(2) The Court if it is satisfied that there is change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the Court may deem just.

(3) The Court if it is satisfied that the party in whose favour an order has been made under this section has remarried or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he had sexual intercourse with any woman outside wedlock, it may, at the instance of the other party, vary, modify or rescind any such order in such manner as the Court may deem just."

14. *Amendment of section 41.* — In section 41 of the principal Act,—

(a) after the words "approved by the Court", the words "or to a guardian appointed by the Court" shall be inserted;

(b) after the words "a new trustee", the words "or guardian," shall be inserted.

15. *Substitution of new section for section 43.* — For section 43 of the principal Act, the following section shall be substituted, namely:—

"43. *Suits to be heard in camera and may not be printed or published.* — (1) Every suit filed under this Act shall be tried in camera and it shall not be lawful for any person to print or publish any matter in relation to any such case except a judgement of the Court printed or published with the previous permission of the Court.

(2) If any person prints or publishes any matter in contravention of the provisions contained in sub-section (1), he shall be punishable with fine which may extend to one thousand rupees."

16. *Amendment of section 44.* — In section 44 of the principal Act, for the word "five", the word "three" shall be substituted.

17. *Amendment of section 45.* — To section 45 of the principal Act, the following provisos shall be added, namely:—

"Provided that the presiding Judge shall read out to the delegates the relevant sections of this

Act, and may, if he consider it necessary so to do, explain the same:

Provided further that a *verbatim* record shall be made of what the presiding Judge reads out or explains to the delegates.”.

18. *Amendment of section 47.* — Section 47 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Every appeal under sub-section (1) shall be heard by a Bench of two Judges of the High Court.”.

19. *Amendment of section 48.* — In section 48 of the principal Act,—

(a) the word “hereby” shall be omitted;

(b) the words “, as if the prior marriage had been terminated by death” shall be omitted.

20. *Amendment of section 49.* — In section 49 of the principal Act, for the words “sixteen years” the words “eighteen years” shall be substituted.

Notification

7-29-88/LA,

The Goa Salary, Allowances and Pension of Members of the Legislative Assembly (Amendment) Act, 1988 (Goa Act No. 18 of 1988) which has been passed by the Legislative Assembly of Goa on 28-7-1988 and assented to by the Governor of Goa on 5-9-1988 is hereby published for general information of the Public.

Maria A. Rodrigues, Under Secretary (Law).

Panaji, 6th September, 1988.

The Goa Salary, Allowances and Pension of Members of the Legislative Assembly (Amendment) Act, 1988

(Goa Act No. 18 of 1988) [5-9-1988]

AN
ACT

further to amend the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Act, 1964.

Be it enacted by the Legislative Assembly of Goa in the Thirty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.* — (1) This Act may be called the Goa Salary, Allowances and Pension of Members of the Legislative Assembly (Amendment) Act, 1988.

(2) It shall come into force at once.

2. *Amendment of section 5.* — In section 5 of the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Act, 1964 (Act 2 of 1965), in sub-section (2),—

(a) after the words “a journey by road”, the words “or by air” shall be inserted;

(b) for the words and figure “travelled by rail.”, the words and figure “travelled by rail or actual air fare for each journey undertaken as the case may be:” shall be substituted;

(c) In the proviso, for the words and figure “by rail.”, the words and figures “by rail or actual air fare with respect to journey undertaken, as the case may be.” shall be substituted.

Secretariat

Annexe, Panaji Goa

Dated

6th September, 1988

(M. RAGHUCHANDER)

Secretary to the Government of Goa,

Law Department (Legal Affairs)